

Search & Seizure

Exclusionary Rule - "Knock & Announce"

Hudson v. Michigan

United States Supreme Court, June 15, 2006

A violation of the 4th Amendment's "knock-and-announce" rule does not require suppression of evidence found in a search.

Police obtained a warrant authorizing a search for drugs and firearms at the defendant's house. They discovered both. When the police arrived to execute the warrant, they announced their presence, but waited only a short time —perhaps three to five seconds — before turning the knob of the unlocked front door and entering his home. The defendant moved to suppress all the inculpatory evidence, arguing that the premature entry violated his Fourth Amendment rights. The State conceded a violation of the "knock and announce" rule, but argued against suppression.

On appeal, the US Supreme Court held that the exclusionary rule does not apply to violations of the "knock-and-announce" rule. The interests protected by the knock-and-announce requirement are quite different, and do not include the shielding of potential evidence from the government's eyes. Rather, the interests behind the rule are to protect against violence which may ensue in the course of an unannounced entry, to prevent against the destruction of property, and to preserve an occupant's privacy and dignity that can be destroyed by a sudden entry. What the knock-and-announce rule has never protected, however, is one's interest in preventing the government from seeing or taking evidence described in a warrant. Since the interests that *were* violated in this case have nothing to do with the seizure of the evidence, the exclusionary rule was inapplicable.

NB. In the past, the SJC has applied the exclusionary rule to a violation of our common law knock-and-announce rule. *Commonwealth v. Gomes*, 408 Mass. 43 (1990) (applying). It's an open question as to whether it will adopt this 4th Amendment view of the rule, and apply it to our common law. Cf. *Commonwealth v. Macias*, 429 Mass. 698 (1999) (declining to depart from our common law probable cause standard to justify a "no-knock" warrant in favor of the lesser 4th Amendment standard of reasonable suspicion).

